

**UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION**

GAVIN CULLENS,

Petitioner,

v.

Case Number: 13-11835

CINDI CURTIN,

Respondent.

**ORDER DENYING PETITIONER'S
"MOTION TO COMPEL ATTORNEY GENERAL TO FILE IMPORTANT
TRANSCRIPTS AND DOCUMENTS UNDER RULE 5 OF 28 U.S.C. § 2254"**

Gavin Cullens, a Michigan state prisoner presently confined in Manistee, Michigan, filed a *pro se* petition for a writ of habeas corpus under 28 U.S.C. § 2254. He challenges his convictions for assault with intent to do great bodily harm less than murder, felonious assault, felon in possession of a firearm, and possession of a firearm during the commission of a felony. Respondent has filed an answer in opposition. Now before the court is Petitioner's "Motion to Compel Attorney General to File Important Transcripts and Documents Under Rule 5 of 28 U.S.C. § 2254."

Rules 5(c) and (d), Rules Governing Section 2254 Cases, require the respondent to file a copy of any prior decisions, pleadings, briefs, and transcripts relevant to the issues presented in a habeas petition. Petitioner claims that Respondent failed to file the following documents: 4/29/08 preliminary examination transcript; trial transcripts dated 1/5/09, 1/6/09, 1/7/09, 1/8/09, 1/9/09, and 1/13/09; 9/15/11 Michigan Court of Appeals Order; 12/28/11 Michigan Supreme Court Order; 8/15/11 Motion for Leave to

File Pro Per Pleadings; Motion to Remand; and Motion for Peremptory Reversal. Petitioner, however, filed most of these documents in an appendix to the petition. He filed the 9/15/11 Michigan Court of Appeals Order, the 12/28/11 Michigan Supreme Court Order, and the 8/15/11 motions. He also filed portions of the trial and preliminary examination transcripts. Respondent has not questioned the authenticity of the documents filed by Petitioner, nor does the court find reason to suspect their authenticity. Therefore, at this time, the court finds no need to order production of further Rule 5 materials. Should the court find additional portions of the state court record necessary for a fair adjudication of the petition, the court *sua sponte* will order production of the required record.

Accordingly, IT IS ORDERED that Petitioner's "Motion to Compel Attorney General to File Important Transcripts and Documents Under Rule 5 of 28 U.S.C. § 2254" (Dkt. # 43) is DENIED.

S/Robert H. Cleland
ROBERT H. CLELAND
UNITED STATES DISTRICT JUDGE

Dated: July 1, 2014

I hereby certify that a copy of the foregoing document was mailed to counsel of record on this date, July 1, 2014, by electronic and/or ordinary mail.

S/Lisa Wagner
Case Manager and Deputy Clerk
(313) 234-5522